



## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

NOV 5 2009

The Director

### MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES

FROM: JOHN BERRY  
DIRECTOR

Subject: Political Appointees and Career Civil Service Positions

The U.S. Office of Personnel Management (OPM) carries out many important responsibilities for the President and the American people but none is more important than our statutory responsibility to ensure the best qualified candidates are selected for Federal jobs after fair and open competition. In light of the historical origins of the civil service system, OPM's role as guardian of the merit system is especially important when a Federal agency selects a political appointee for a position in the civil service. While political appointees may not be excluded from consideration for Federal jobs because of their political affiliation, they must not be given preference or special advantages.

Pursuant to our oversight authority under 5 U.S.C. Section 1104(b)(2) and 5 CFR Section 5.2, OPM requires Federal agencies to seek our approval before selecting a political appointee for a competitive service position during a Presidential election year. OPM's oversight in this area safeguards merit system principles and assures fair and open competition free from political influence. However, if the proposed civil service job is below the Senior Executive Service (SES) level, OPM's review has been limited only to competitive service appointments and only those appointments that take place during a Presidential election year. In contrast, OPM conducts merit staffing reviews of proposed SES appointments whenever they occur.

I believe we must hold ourselves and the government to a higher standard, one that honors and supports the President's strong commitment to a Government that is transparent and open. OPM's responsibility to uphold the merit system is not limited to Presidential election years nor to competitive service appointments. That is why I am instituting a change in OPM policy with respect to hiring political appointees for civil service jobs.

Beginning January 1, 2010, agencies must seek prior approval from OPM before they can appoint a current or recent political appointee to a competitive or non-political excepted service position at any level under the provisions of title 5, United States Code. OPM will review these proposed appointments to ensure they comply with merit system principles and applicable civil service laws. I have delegated decisionmaking authority over these matters to career Senior Executives at OPM to avoid any hint of political influence.

In no case may an agency make an appointment of the type described below without written authorization from OPM:

- A. The appointment of a current political Schedule A or Schedule C Executive Branch employee or a former political Schedule A or Schedule C Executive Branch employee who held the position within the last five years to a competitive or non-political excepted service position under title 5 of the U.S. Code.
- B. The appointment of a current Non-career SES Executive Branch employee or a former Non-career SES Executive Branch employee who held the position within the last five years to a competitive or non-political excepted service position under title 5 of the U.S. Code.

OPM will continue to conduct merit staffing reviews for all proposed career SES selections involving a political Schedule A, Schedule C, or Non-career SES political appointee before the SES selections are presented to OPM's Qualifications Review Board (QRB) for certification of executive qualifications. Agencies should carefully review all proposed SES selections to ensure they meet merit system principles before such cases are forwarded to the QRB.

Any request to appoint a current or former political appointee to a competitive or non-political excepted service position should be sent to the following address via e-mail or FAX with the information requested in the attached Pre-Appointment Checklists:

Marlene Lightburn  
Office of Personnel Management  
Dallas Oversight and Accountability Group  
Plaza of the Americas, 700 North Pearl Street  
North Tower, Suite 525  
Dallas, Texas 75201  
[Marlene.lightburn@opm.gov](mailto:Marlene.lightburn@opm.gov)  
Phone (214) 880-4980  
FAX (214) 880-4999

If you have any questions or need further information about the requirements established by this memorandum, please contact Jeffrey Sumberg, Deputy Associate Director, Center for Merit System Accountability, at 202-606-2786 or at [jeffrey.sumberg@opm.gov](mailto:jeffrey.sumberg@opm.gov).

Attachment

cc: Chief Human Capital Officers  
Human Resources Directors



## PRE-APPOINTMENT CHECKLIST COMPETITIVE SERVICE POSITIONS

Agency: \_\_\_\_\_

Selectee: \_\_\_\_\_

Current/former position and appointing authority: \_\_\_\_\_

Dates current/former position was held: \_\_\_\_\_

Proposed position and appointing authority: \_\_\_\_\_

*Please submit the information described below along with a dated cover letter signed by the agency HR Director certifying that the proposed action meets all merit and fitness requirements in 5 U.S.C. 2301 and 2302 and Civil Service Rules 4.2 and 7.1.*

- An agency point of contact for follow-up questions.
- The position description for the candidate's current or former appointment and the position description for the proposed appointment. Please include a fully executed OF 8 or equivalent showing why and how the respective positions were established. Explain any relationship between the two positions.
- A statement explaining the disposition of the proposed selectee's current political Schedule A, Schedule C, or Non-career SES position, if vacated.
- The complete case file for the proposed merit selection, including:
  - The vacancy announcement(s) published on the USAJOBS web site (*preferably the USAJOBS printed version; if not, include the USAJOBS control number*)
  - A description of recruiting sources and advertising methods used in addition to USAJOBS
  - The qualification standard used
  - The job analysis, justification of any selective factor, and rating schedule/crediting plan
  - Complete applications from all applicants (e.g., résumés, questionnaires, DD-214s)
  - Documentation of all qualification determinations, how the crediting plan was used to assess each qualified applicant, and what tie-breaking method was used, if any
  - Agency correspondence with applicants (e.g., acknowledging receipt, notices of rating)
  - Information showing how regulatory requirements of the Interagency Career Transition Assistance Program (ICTAP) were met
  - Documentation of any declinations and/or pass overs and objections
  - The referral list or lists issued to the selecting official and the completed referral list documenting the tentative selection
- The name of the selecting official and his or her title, telephone number, and type of appointment (e.g., career SES, Schedule C, Presidential Appointee).
- The names of rating/ranking panel members (if appropriate) and their titles, telephone numbers, and types of appointment

**PRE-APPOINTMENT CHECKLIST  
NON-POLITICAL EXCEPTED SERVICE POSITIONS**

**Agency:** \_\_\_\_\_

**Selectee:** \_\_\_\_\_

**Current/former position and appointing authority:** \_\_\_\_\_

**Dates current/former position was held:** \_\_\_\_\_

**Proposed position and appointing authority:** \_\_\_\_\_

*Please submit the information described below along with a dated cover letter signed by the agency HR Director certifying that the proposed action meets all merit and fitness requirements in 5 U.S.C. 2301 and 2302 and Civil Service Rules 4.2 and 7.1.*

- An agency point of contact for follow-up questions.
- The position description for the candidate's current or former appointment and the position description for the proposed appointment. Please include a fully executed OF 8 or equivalent showing why and how the respective positions were established. Explain any relationship between the two positions.
- A statement explaining the disposition of the proposed selectee's current political Schedule A, Schedule C, or Non-career SES position, if vacated.
- The complete case file for the proposed appointment, including:
  - Evidence of fair and open competition (a recruiting notice, if one was used)
  - Recruiting sources and advertising methods
  - The established qualifications, and previous qualification standards if changed within the previous 12 months
  - A copy of the agency's policy for accepting excepted service applications
  - Applications from all who applied and information showing how each met or failed to meet established qualifications
  - Information showing how veterans' preference was considered
  - The referral list or lists issued to the selecting official and the completed referral list documenting the tentative selection
- The name of the selecting official and his or her title, telephone number, and type of appointment (e.g., career SES, Schedule C, Presidential Appointee).
- The names of rating/ranking panel members (if appropriate) and their titles, telephone numbers, and types of appointment

*Please note the checklist does **not** apply to:*

- *appointment of an individual from one Schedule C position to a different Schedule C position and*
- *movement of an individual from one Presidential appointment to a different Presidential appointment.*